MINUTES
of the
THIRD MEETING
of the
REVENUE STABILIZATION AND TAX POLICY COMMITTEE

August 13-14, 2015
State Capitol, Room 322
Santa Fe

The third meeting of the Revenue Stabilization and Tax Policy Committee was called to order by Senator Carlos R. Cisneros, chair, on Thursday, August 13, 2015, at 10:10 a.m. in Room 322 of the State Capitol in Santa Fe.

Present
Sen. Carlos R. Cisneros, Chair
Sen. Ted Barela
Rep. David M. Gallegos (8/14)
Rep. Antonio Maestas
Rep. Rod Montoya
Sen. Mark Moores
Sen. George K. Munoz (8/13)
Rep. Debbie A. Rodella
Sen. Clemente Sanchez
Sen. William E. Sharer
Rep. James R.J. Strickler
Rep. Carl Trujillo
Rep. Jim R. Trujillo
Sen. Peter Wirth

Absent
Rep. Jason C. Harper, Vice Chair
Sen. Sue Wilson Beffort
Rep. Tim D. Lewis
Sen. John Arthur Smith

Designees
Sen. William F. Burt
Rep. Bill McCamley
Sen. Nancy Rodriguez (8/13)

Rep. David E. Adkins
Sen. Jacob R. Candelaria
Rep. Sharon Clahchischilliage
Sen. Lee S. Cotter
Rep. Randal S. Crowder
Rep. Brian Egolf
Rep. Miguel P. Garcia
Rep. Stephanie Garcia Richard
Rep. Bealquin Bill Gomez
Sen. Stuart Ingle
Rep. Conrad James

Sen. Gay G. Kernan
Rep. Stephanie Maez
Rep. Javier Martinez
Rep. Tomás E. Salazar
Sen. John M. Sapien
Rep. Jeff Steinborn
Rep. James G. Townsend
Sen. Pat Woods

Guest Legislator
Rep. Dennis J. Roch (8/14)

(Attendance dates are noted for members not present for the entire meeting.)

Staff
Pam Stokes, Staff Attorney, Legislative Council Service (LCS)
Amy Chavez-Romero, Assistant Director for Drafting Services, LCS
Nancy Martinez, Intern, LCS

Guests
The guest list is in the meeting file.

Handouts
Handouts and other written testimony are in the meeting file.

Thursday, August 13

State Land Office Annual Status and Revenue Update
Aubrey Dunn, commissioner of public lands, provided the committee with an overview of the activities of various divisions within the State Land Office (SLO) and the revenues generated from those activities.

Commissioner Dunn summarized the objectives of the SLO, which focus on:

- optimization of revenue for public institutions;
- support of education;
- job creation;
- maintenance of a strong agricultural sector;
- fostering oil, gas and renewable energy development; and
- watershed restoration, site remediation and trust land protection.

Commissioner Dunn provided examples of specific initiatives and priorities of the SLO. He discussed the SLO's recent watershed restoration activities, which include the restoration of over 3,000 acres of state trust land. He also described efforts to update the Oil and Natural Gas Administration and Revenue Database (ONGARD).

Total SLO revenues for fiscal year (FY) 2015 were projected to approximate $732 million, yet actual revenue for FY 2015 reached $739.5 million. Commissioner Dunn indicated that estimates had been revised downward due to dropping oil prices. He stated that oil prices reached a low of $32.00 per barrel, and that figure could be $35.00 per barrel in December. However, revenues from lease sales have also made significant contributions to revenues. For instance, in July, a lease sale in southern New Mexico yielded about $15.5 million for beneficiaries of the state land trust. Commissioner Dunn said this was the fourth largest sale in SLO history. He then presented a chart containing historical information on lease sales by the SLO from FY 2013 through FY 2015.

Commissioner Dunn talked about the audit and royalty collection efforts of the SLO. The SLO conducted six field audits in FY 2013, nine field audits in FY 2014 and 13 field audits in FY 2015. In FY 2015, interest and royalty collections stemming from these efforts approximated $10 million. Commissioner Dunn discussed royalty and interest collections from previous years and indicated that those collections in FY 2011 were significantly larger, approximating almost $25 million, because of receipts from a $20 million settlement with BP.

Next, Commissioner Dunn described the activities of the SLO's Commercial Resources Division. He projected that revenues generated by rights of way related to electric lines, pipelines and roads would approximate $7.1 million for FY 2017. The Commercial Resources Division is in the process of reviewing hundreds of applications for rights of way, many of which were submitted at least a few years ago. Revenues from managing water disposal agreements and water easements are expected to approximate $6.1 million for FY 2017. The Commercial Resources Division also manages business leases for activities such as renewable energy and telecommunications. Revenues from those activities are expected to approximate $4.9 million for FY 2017. In total, the Commercial Resources Division anticipates the generation of approximately $18.1 million in revenue for FY 2017. Commissioner Dunn briefly discussed possible contributions of existing leases for solar development to revenues generated by the Commercial Resources Division.

The Field Operations Division of the SLO is responsible for administering agricultural leases. Commissioner Dunn estimated that about $8 million would be generated from agricultural leases for FY 2016. He described the formula used to calculate agricultural leasing fees and how factors such as rainfall and lease rates in western states could affect lease rates in New Mexico.

For FY 2015, revenue collected by the SLO from all sources reached $739.5 million; $669.4 million attributable to royalties and land sales was contributed to the Land Grant Permanent Funds; and $70.1 million of the total revenue collected by the SLO was earned for the State Lands Maintenance Fund.

For FY 2016, Commissioner Dunn projected that total revenue could approximate $493.8 million, with $441.9 in revenues from royalties and land sales that could be contributed to the Land Grant Permanent Funds. He estimated that the State Lands Maintenance Fund could receive approximately $51.9 million in FY 2016.

Commissioner Dunn presented a table showing the earnings received by each beneficiary of state trust lands. He noted that during the last five fiscal years, New Mexico's public schools have received over $2.8 billion in distributions.

Questions and comments from the committee members followed. The committee members and Commissioner Dunn commented on the volatility of oil prices and the effect on state revenues, including distributions to certain beneficiaries of state trust lands.

Committee members also asked about the possibility of developing state trust lands for commercial enterprise and other possibilities for job creation. Commissioner Dunn indicated that the SLO is working to develop state trust lands within municipalities and is working with economic development partners to promote and use state trust lands that are in the path of economic development and growth. In response to a question regarding the distribution of money from long-term commercial leases, SLO staff indicated that the revenue is distributed to the State Lands Maintenance Fund, which is distinguishable from royalties distributed to the Land Grant Permanent Funds.

Committee members asked whether the planned Rio Grande Trail is anticipated to cross through any state trust land. Commissioner Dunn responded that while the trail could cross through a couple of tracts of state trust land, it would have a minimal impact on that land. He indicated that one tract in Sierra County is already leased to the State Parks Division of the Energy, Minerals and Natural Resources Department.

In response to questions from committee members, Danny Martinez, director, Royalty Management Division, SLO, and Commissioner Dunn discussed how revenues from lease sales are generated. They explained that demand for leases with respect to certain tracts of land could result in a lessee's payment of a "bonus" to the SLO.

Committee members and Commissioner Dunn discussed how lease fees in New Mexico might compare with those fees in other states. Committee members expressed that lease fees are only one factor that the oil and gas companies might consider when making decisions to conduct business in New Mexico. They discussed how other factors, such as severance tax rates relative to other states, might also be considered. Committee members also discussed the risks undertaken by oil and gas companies and the possible impacts of technology on risk reduction.

In response to questions regarding SLO lease agreements with tribes, SLO staff explained that the SLO has some existing leases with tribes for livestock grazing. Committee members also inquired about the status of the Dixon apple orchard. SLO staff indicated that the property is under lease to the Pueblo of Cochiti, but many of the irrigation structures on the property have been devastated.

Approval of Minutes

On a motion made and seconded, the minutes from the July meeting were adopted without objection.

Gaming Revenue, Trends and Tribal-State Revenue Sharing

Donovan Lieurance, acting executive director, Gaming Control Board (GCB), provided the committee with an overview of gaming revenue collections. He presented a graph showing gaming tax revenues that have been distributed to the general fund within the last five years. He pointed out that gaming tax revenues have increased by less than one percent from FY 2014 to FY 2015. He also presented a graph showing trends in tribal net wins and revenue shares and racetrack net takes. The net take for racetracks increased slightly from FY 2014 to FY 2015 because of renovations to the racetrack at the Albuquerque Downs Racetrack and Casino. Tribal net wins decreased slightly from FY 2014 to FY 2015.

Mr. Lieurance presented a chart showing estimated nontribal gaming revenue for FY 2015 and estimated revenue for FY 2016. He indicated that those revenues increased in FY 2015, but he projects that those revenues will probably stay relatively flat in the next fiscal year because of saturation of the gaming markets, particularly in the Albuquerque area.

Mr. Lieurance presented estimates that were made during the 2015 legislative session with respect to gaming revenues anticipated, assuming that all of the tribes that signed onto the 2007 compact, with the exception of the Pueblo of Pojoaque, had signed the 2015 compact. The estimated revenues range from $6.91 million in FY 2016 to $14.15 million in FY 2019.

Jeffrey S. Landers, chair, GCB, briefly discussed the possible impact of the 2015 compacts on tribes that have signed the compacts and the affected casinos. He indicated that provisions pertaining to extensions of credit and free play might allow those casinos to increase revenue.

Committee members asked about the possible construction of new casinos. Mr. Lieurance noted that the Pueblos of Zuni and Nambe are exploring construction of new casinos. Committee members also inquired about the amounts of revenue generated from out-of-state visitors to casinos in New Mexico. Mr. Landers indicated that casinos in areas such as Hobbs and Ruidoso often attract visitors from other states, but the operating tribes would have the specific information on those revenues generated.

Committee members asked about legal age limitations with respect to lottery games available in bars. Mr. Lieurance indicated that those games are bingo-themed games, and the age limits for playing those games would be a function of the establishments in which the games are available. The games available in bars could only be played by individuals over the age of 21, and an age limit of 18 would likely be required in other establishments. In response to a question about whether the availability of those games would have an impact on existing compacts, Mr. Lieurance indicated that the compacts would not be affected because those games are considered to be lottery-based.

Committee members asked about the role of the GCB in overseeing gaming compacts with the tribes. Mr. Lieurance explained that the board has a role in monitoring compliance with the compacts.

Committee members inquired about the current status of litigation between the state and the Pueblo of Pojoaque. At issue is an appeal of a federal district court's holding that the federal Department of the Interior did not have authority to exercise secretarial procedures when the state and pueblo could not agree upon a compact. Mr. Lieurance indicated that if the Tenth Circuit Court of Appeals affirms the decision of the district court, the state and the pueblo might be required to negotiate a compact. He explained that almost $5 million per year is being put into an escrow account by the Pueblo of Pojoaque, pending the resolution of the litigation. The pueblo has indicated that it would set aside eight percent of revenue that it would have received pursuant to the 2001 compact. An oral argument in that matter is scheduled in the Tenth Circuit Court of Appeals in December. When asked about the outcome of a similar matter in the Fifth Circuit Court of Appeals, Mr. Lieurance indicated that the Fifth Circuit held that the Department of the Interior did not have the authority to exercise secretarial procedures in that case.

Questions followed regarding the status of the possible establishment of gaming facilities or racetracks in areas such as Akela Flats, Deming and Lordsburg. Mr. Lieurance indicated that there are currently no gaming facilities in Akela Flats, and he is not aware of any requests to the GCB with respect to the establishment of racetracks in Deming or Lordsburg.

In response to a question about how the number of gaming licenses is regulated, Mr. Lieurance stated that the number of gaming licenses is not prescribed by statute. However, he indicated that legal limitations on racetracks and casinos might exist within contract exclusivity provisions.

Mr. Lieurance and the committee members discussed how federal approval is granted for tribal-state gaming compacts. While the Department of the Interior must approve the compacts pursuant to the federal Indian Gaming Regulatory Act, they may be "deemed approved" if the secretary of the interior does not take action on them within a specified amount of time.

Laboratory Partnership with Small Business Tax Credit Annual Report

Genaro Montoya, program leader, New Mexico Small Business Assistance Program, Sandia National Laboratories, provided an overview of the Laboratory Partnership with Small Business Tax Credit Act. Pursuant to the act, up to $2.4 million in tax credits are provided to the national laboratories operating in New Mexico for research assistance provided to small businesses in the state. Up to $20,000 in tax credits is provided to a laboratory for qualified expenditures made for each business located in a rural county and up to $10,000 for each business located in an urban county. Mr. Montoya explained that the Taxation and Revenue Department (TRD) administers the program, and the national laboratories are required to seek the advice of the Economic Development Department with respect to improvements of the New Mexico Small Business Assistance Program. He indicated that surveys are conducted each year to assess the economic impact of and customer satisfaction with the program.

Mr. Montoya provided the committee with various statistics on the impact of the program. From 2000 to 2014, the program assisted 2,341 small businesses in New Mexico, with 65 percent of those businesses located in rural areas. During that period, $43.7 million in assistance was provided to small businesses in 33 counties throughout the state. Mr. Montoya attributed the creation or retention of 4,086 jobs in New Mexico from 2000 through 2013 to the New Mexico Small Business Assistance Program. He also stated that small businesses assisted by the program obtained $77.1 million in new financing or funding during the same period. For 2015, Mr. Montoya estimated that 315 to 345 businesses would be assisted and that small businesses would receive a total of $4.5 million to $4.7 million through the program.

Mr. Montoya discussed ongoing strategies of the program, including broadening the types of businesses receiving assistance and increasing the range of technical assistance available through the program. He summarized how the program assists businesses in industry sectors, including agriculture, oil and gas mining, renewable energy, manufacturing and high-technology.

Mr. Montoya introduced Kimberly Corbitt, chief executive officer, Pharma Connect XPress. Pharma Connect Xpress uses a distributed software system to facilitate interactions between health care providers and the pharmaceutical industry. Ms. Corbitt explained how the New Mexico Small Business Assistance Program provided her business with technical expertise in data analytics, which allowed her to provide critical information to stakeholders.

In response to questions from committee members, Mr. Montoya clarified that a gross receipts tax credit is provided pursuant to the Laboratory Partnership with Small Business Tax Credit Act. He also clarified that the national laboratories in New Mexico receive tax credits for labor and technical assistance provided by the laboratories to small businesses in New Mexico. Financial assistance is not provided by the laboratories through the New Mexico Small Business Assistance Program. The tax credits are capped at $2.4 million per laboratory in a calendar year.

Committee members discussed possibilities for providing increased assistance to small businesses and increasing program efficiency. Mr. Montoya indicated that a waiver of overhead for scientists providing assistance could facilitate those goals. Committee members also expressed encouragement for businesses receiving assistance through the New Mexico Small Business Assistance Program to stay in New Mexico.

Assessment of Property Taxes on Utility Contributions in Aid of Construction

Keven Groenewold, executive vice president and general manager, New Mexico Rural Electric Cooperative Association (NMRECA), discussed the possible impacts of the potential imposition of property taxes upon utilities with respect to contributions in aid of construction. Mr. Groenewold indicated that, recently, questions have been raised about whether contributions in aid of construction are part of a utility facility's value for property tax purposes. He expressed concern that if property taxes are imposed upon contributions in aid of construction, customers will bear the cost.

David Spradlin, general manager, Springer Electric Cooperative, Inc., indicated that its property attributable to contributions in aid of construction has historically not been subject to the property tax. However, since 2011, there have been isolated instances in which contributions in aid of construction have been included in assessed values for property tax purposes. Mr. Spradlin indicated that the cooperative has protested those valuations and consulted with the Property Tax Division of the TRD, but the protests associated with those assessments have not been resolved.

Daniel Najjar, counsel, NMRECA, suggested that including contributions in aid of construction in property valuations is not uniform with valuations employed by most other counties. He indicated that most counties do not include contributions in aid of construction in property valuations.

The committee received presentations from representatives of various electric cooperatives, including: Mike Anderson of the Central Valley Electric Cooperative; Luis Reyes of the Kit Carson Electric Cooperative; and Robert Castillo of the Continental Divide Electric Cooperative. The utility representatives talked about contributions in aid of construction received by their respective cooperatives with respect to certain projects. They indicated that if contributions in aid of construction become subject to the property tax, costs to their cooperative members would significantly increase. Mr. Groenewold added that contributions in aid of construction are not depreciated, yet the useful life has expired for many of those assets. Public Regulation Commissioner Valerie Espinoza stated that since cooperatives are member-owned, she is concerned about the potential impact to ratepayers.

Questions and comments by the committee members followed. In response to a question, Mr. Groenewold clarified that a contribution in aid of construction is associated with a cost not borne by an electric cooperative, and it is not included in the cooperative's balance sheet. Committee members asked why some county assessors might view contributions in aid of construction as property that must be valued for property tax purposes. Mr. Najjar indicated that some interpret existing statutes to require valuation of the actual cost of acquired property, whether the cost is borne by the taxpayer or the contributing party. However, he stated that electric cooperatives do not earn rates on contributions in aid of construction and that the cooperatives would find difficulty fronting those costs. He suggested that for the cooperatives, a viable solution might be statutory clarification that only those costs borne by the taxpayer for assets would be considered in valuations for property tax purposes. Mr. Groenewold suggested the NMRECA would work with the TRD on potential solutions to the issues surrounding contributions in aid of construction.

Committee members pointed out that valuation increases could have a significant effect in rural communities if the increased costs are spread out among few members. Committee members also asked about federal requirements governing the accounting of contributions in aid of construction. Mr. Groenewold indicated that under requirements of the Rural Utilities Service (RUS) of the United States Department of Agriculture, if a cooperative does not incur a cost, it is not included in plant accounts. He said that the chart of accounts used for the RUS is recognized by the Public Regulation Commission and the Property Tax Division of the TRD.

In response to a question regarding the perspectives of county assessors on this issue, Clyde Ward, then-San Juan County assessor, indicated that there could be large values associated with transmission lines and that there may be other considerations regarding ownership of assets associated with contributions in aid of construction.

Revenue, Infrastructure and Impact of the Changing Utility Environment

Matthew Jaramillo, state government affairs, Public Service Company of New Mexico (PNM), provided the committee with an overview of PNM's service territory and generation facilities. He indicated that PNM employs more than 1,500 employees and is responsible for 14,763 miles of transmission and distribution lines. PNM is also responsible for 2,707 megawatts of generation capacity. PNM ranks in the top quartile of utilities nationally and paid $22.8 million in property taxes and $57.7 million in gross receipts taxes in 2014. According to Mr. Jaramillo, PNM purchases $203 million in New Mexico goods and services annually and contributes over $3 million to communities and local nonprofits through grants, the Low Income Home Energy Assistance Program and PNM's Good Neighbor Fund. Mr. Jaramillo stated that PNM is currently investing $270 million in 15 large-scale solar facilities throughout the state.

Ron Darnell, senior vice president, public policy, PNM, provided the committee with an update of PNM's recent activities, including its plans to file a new rate case with the Public Regulation Commission in August. He also provided an update on PNM's efforts with respect to a revised state implementation plan for the San Juan Generating Station (SJGS). Pursuant to rules of the federal Environmental Protection Agency (EPA), the SJGS must reduce emissions in order to reduce haze and improve visibility in the Four Corners area. PNM plans to install selective non-catalytic emissions-reduction technology. PNM's plans would assist with compliance with new carbon regulations proposed by the EPA, while reducing coal capacity by 50 percent, emissions by 50 percent and water usage by 50 percent. A new coal supply contract will save customers $340 million over the next six years.

Mr. Darnell talked about the value to PNM of fuel diversity. He stated that fuel diversity helps to protect consumers from contingencies such as fuel unavailability and fluctuations in prices. He also said that fuel diversity helps PNM to maintain reliability during extreme conditions and provide a greater ability to respond to outages and security threats. Mr. Darnell presented a chart showing the relative percentages of fuel used by PNM. Of PNM's total energy generation mix, 46 percent is composed of coal, 31 percent is composed of nuclear energy, 12 percent is composed of natural gas and 11 percent is composed of renewable energy sources. He indicated that PNM is exploring methods to modernize its power grid, including the possible use of smart meters in place of a net metering system.

Mr. Darnell stated that PNM customers currently spend four times the amount on electric applications than they spend on electric bills. Electric applications include services related to landline and cellular phones, internet access, cable and satellite television and other services.

A discussion between the committee members and Mr. Darnell followed. Committee members commented that the jobs provided by PNM are important contributors to New Mexico's economy. In addition, committee members and Mr. Darnell discussed existing costs associated with net metering and smart metering systems. Mr. Darnell indicated that smart meters would be more effective by sending pricing signals associated with customer use of PNM's power grid, especially in extreme weather conditions. In response to a question from a committee member, Mr. Darnell indicated that PNM is gathering data on the possible benefits of smart metering but that no immediate changes to that system are anticipated. Committee members and Mr. Darnell also discussed possible impacts with respect to developing technologies that could permit some homeowners to live "off the grid".

Committee members raised questions about funding mechanisms with respect to utility regulation and the distribution of an existing mill levy imposed on utilities. They also discussed issues with regard to the funding and composition of the Public Regulation Commission. Committee members also discussed possible attributes of different energy sources, including nuclear, coal and petroleum sources.

Friday, August 14

Report from the State Treasurer

Tim Eichenberg, state treasurer, provided an overview of the operations of the State Treasurer's Office (STO). He introduced several members of his staff, including: Ricky Bejarano, deputy state treasurer; Leo Marquez, chief financial officer; Charmaine Cook, chief investment officer; Edward Gallegos, state cash manager; and Clarence Smith, chief operations officer.

Mr. Gallegos explained the functions of the STO's Cash Management Division. The division is responsible for ensuring that cash balances in the state's custody are efficiently and prudently managed. The division develops regulations pertaining to cash control and monitors the activity and balances of more than 500 state bank accounts; validates deposits and withdrawals; compares fiscal agent balances to the Statewide Human Resources, Accounting and Management Reporting System (SHARE); authorizes requests for depository bank accounts outside of the fiscal agent bank account; and is responsible for compliance with the federal Cash Management Improvement Act of 1990.

Mr. Gallegos also discussed the responsibilities of the STO's Cash Management Division to project the state's cash needs and to determine amounts available for short- and long-term investment. The division must ensure adequate safeguards for money in state time deposits, state fiscal agent accounts and state agency accounts. The division additionally manages collateral levels set by depository institutions and monitors compliance with the State Board of Finance's collateral policy and the state treasurer's investment policy.

Ms. Cook briefly discussed the characteristics of the Local Government Investment Pool, a voluntary investment alternative for local and quasi-governmental entities, which maintains a Standard & Poor's AAAm rating. Investment with the fund provides investing entities with the expertise of the STO's investment managers.

Mr. Marquez described his areas of responsibility, including finance, budgeting and reconciliations, and Mr. Smith described his responsibilities, which include oversight of the day-to-day operations of the Department of Information Technology (DOIT) and human resources management.

Committee members asked about the total number of employees working at the STO. State Treasurer Eichenberg stated that the STO currently has 31 full-time employees.

Committee members inquired about the status of the implementation of SHARE and its impact on the STO. Mr. Bejarano stated that there have been a number of concerns with the implementation of SHARE and suggested that, from the perspective of the STO, strategies with regard to implementation of the system might need significant revision. There are concerns about the reliability of some accounting data contained on the system, and he indicated that because of the STO's concerns, it is seeking to implement a system that would allow it to obtain information on balances separately from the Department of Finance and Administration (DFA). State Treasurer Eichenberg added that $1.9 million has been appropriated to the STO for its own module in SHARE, which will allow the STO to maintain its own information on balances, and to create some separation between the STO's data and the data controlled by the DFA in the primary SHARE system.

Committee members asked about the costs that have been associated with the implementation of SHARE. Mr. Bejarano indicated that initial expenditures for SHARE approximated $20 million, but over the last 10 years, between $80 million and $100 million has been spent on implementation. State Treasurer Eichenberg noted that the STO is currently meeting with officials from the City of Albuquerque, which is in the process of implementing its own treasury module in SHARE. He stated that the STO is studying the city's implementation of the module and hopes to gain insight from the city's experience. The STO is also making inquiries with treasurers from other states about their respective modules.

When asked about the DOIT's planned upgrades to SHARE, Mr. Bejarano stated that the STO is concerned about the upgrades because they do not permit the STO to maintain accounts independently and would not necessarily resolve existing issues with the system. A committee member questioned whether independent modules would be feasible if the purpose of SHARE is to reconcile all of the state's accounts in one system. Committee members also discussed whether it would be feasible for the DFA to find a fiscal year in which the data are most reliable and produce a comprehensive annual financial report for that year and subsequent fiscal years. Some committee members discussed interests in exploring options for a new accounting system.

A committee member questioned whether required chief procurement officer designations for each political subdivision of the state are beneficial to those political subdivisions, especially smaller ones such as mutual domestic water consumer associations. Mr. Bejarano stated that in his opinion, any certification is beneficial because it ensures adequate training and continuing education. However, he expressed that some smaller entities might require flexibility and suggested that some exceptions within a structure of required certification might be beneficial. He suggested that models employed by regional cooperatives could be useful.

In response to a question from a committee member, State Treasurer Eichenberg briefly described his role as a member of the New Mexico Mortgage Finance Authority Board of Directors and as a member of the State Investment Council (SIC).

Film Production Tax Credit — Annual Report and Update

Nick Maniatis, director, New Mexico Film Division, Economic Development Department, presented a number of statistics regarding the production of films in New Mexico during FY 2015. There were 79 productions in New Mexico in FY 2015, and 180 inquiries regarding productions were recorded by the division. The 79 productions in FY 2015 exceeded the annual average of 71 productions. Twenty-five projects had budgets greater than $1 million in FY 2015, exceeding the average of 18 productions of that type in previous years. Of those 25 projects, 11 projects were television projects. Five of those 11 projects were television series. Direct expenditures attributable to television series productions in New Mexico averaged $19 million per series. Mr. Maniatis attributed $286.4 million in direct qualifying expenditures to productions in FY 2015. The New Mexico Film Division recorded 298,000 "worker days" for that fiscal year.

Mr. Maniatis described legislation passed in 2015 pertaining to film tax credit assignability, which includes allowing a film production company to assign the payment of a refundable film production tax credit to a third-party financial institution or another authorized third party. The assignment is permitted only once. These new provisions would assist smaller film production companies and entities in obtaining loans for their projects.

Mr. Maniatis discussed how the New Mexico Film Division has undertaken various initiatives, including efforts to encourage productions to hire veterans and interns attending New Mexico educational institutions. The New Mexico Film Division's pre-employment training program and various outreach efforts promote New Mexico filmmaking and include a filmmakers' showcase, an annual film and media conference and a weekly radio show. The division's efforts to promote film tourism also include the creation of downloadable maps, which pinpoint locations where films in New Mexico were made. The goal of that initiative is to encourage tourists to add one day to their stay in New Mexico to allow time to visit those locations.

In response to a question regarding the state's total tax expenditures on film tax credits each year, Mr. Maniatis indicated that there is a $50 million cap on the amounts of those credits awarded per year. Committee members asked about the New Mexico Film Division's efforts to promote the production of films in areas outside of Albuquerque and Santa Fe. Mr. Maniatis indicated that since there is already high demand for filming in those areas, the division makes an effort to promote other areas throughout New Mexico.

Some committee members discussed the economic benefits attributable to the provision of film production tax credits within certain communities. Committee members also asked about the film tax credits that are provided in New Mexico relative to other states. Mr. Maniatis indicated that besides California and New York, Georgia and Louisiana are the states most competitive with New Mexico in terms of available film tax incentives. Mr. Maniatis indicated that Louisiana's film tax credits have become capped at a certain amount.

A committee member asked how the film industry in New Mexico would be affected by a proposed flat tax at a two percent rate. Mr. Maniatis indicated that the industry would be affected in some manner, but further research would be necessary to assess the impacts.

Capital Outlay Process and Outstanding Projects

Linda Kehoe, principal analyst, Legislative Finance Committee (LFC), provided the committee with an update of the status of outstanding capital outlay funds. As of June 2015, approximately $717.8 million from all funding sources is outstanding for 1,942 projects, excluding 991 projects totaling $293.9 million authorized in the 2015 special session and not including $438 million from supplemental severance tax bonds for public schools. The total includes certain earmarked amounts, including $56.4 million for water projects, $29 million for colonias infrastructure projects, $23.5 million for tribal infrastructure projects and $167 million for 2014 general obligation bonds issued in March 2015.

Ms. Kehoe indicated that since the March 2015 quarterly report, 154 capital projects closed with approximately $70.3 million expended or reverted. Of the outstanding funding sources, the percentage attributable to the general fund accounts for less than one percent, while severance tax bonds account for 58 percent, general obligation bonds account for 31 percent and other state funds account for 10 percent. During 2008 and 2009, the LFC used general fund balances to assist with solvency issues.

Ms. Kehoe presented a chart showing amounts appropriated and expended for capital projects each year. The chart contained information on capital project expenditures as a percentage of appropriations. The percentages ranged from 88 percent expenditures for 2009 to seven percent expenditures for 2014. Ms. Kehoe explained that amounts appropriated for capital projects from 2009 through 2011 were low compared to subsequent years because of solvency issues that existed during those years. She indicated that there were few funds available for local projects during that period.

Ms. Kehoe stated that of the funds authorized from the general fund and severance tax bonds, $128.3 million for state-owned projects and $184.5 million for local projects remain unexpended. Ms. Kehoe presented a table showing expended funds as a percentage of amounts appropriated for 2009 through 2014. The expenditures for state and local projects as a percentage of appropriated amounts might not be comparable because the number of state projects is often significantly lower than the number of local projects.

Ms. Kehoe stated that the LFC tracks appropriations funded for amounts of $1 million or greater. This includes 205 projects funded at an aggregate amount of $1.1 billion. She said that unexpended balances account for 81.1 percent of all unexpended funds.

Ms. Kehoe highlighted a number of major capital projects that have recently been completed, including the following projects:

- phase 2 of the Meadows long-term care facility;
- renovations to the Manuel Lujan, Jr. building;
- the San Juan College School of Energy center;
- the Department of Public Safety's Law Enforcement Academy dormitories;
- Department of Health facility patient health and safety statewide improvements; and
- the Rio Rancho all-inclusive regional park facility.

Ms. Kehoe presented charts containing information on outstanding capital outlay appropriations for local projects in each county. For 2012 through 2015, one of the charts indicated that 83.8 percent of funds appropriated for those projects are still outstanding. Another chart provided information regarding fiscal agents for local projects and information on the progress of those projects.

Ms. Kehoe described the LFC's process for obtaining information on capital project needs. By July 1, every state agency is required to make requests for capital projects for the next legislative session. The LFC conducts site visits to gain an understanding of capital outlay needs throughout the state and receives presentations from state agencies. Certain LFC staff serve as voting members on the Higher Education Department's (HED's) Capital Outlay Review Committee to assist the LFC in obtaining information about critical needs with respect to projects funded through general obligation bonds. While general obligation bond capacity for 2016 is not yet known, it could reach a low of $150 million. Yet, Ms. Kehoe stated, requests for $260 million in higher education projects have been received by the HED's Capital Outlay Review Committee. In previous years, auxiliary projects have not been funded despite their inclusion in a general obligation act. Ms. Kehoe explained that general obligation bonds are serviced by property taxes with the assumption of a flat mill levy.

Ms. Kehoe indicated that in September, the LFC will hold a hearing to obtain an overview of the needs and priorities of various entities. Local governments will also submit capital improvement plans, which provide information on local government capital improvement priorities. Ms. Kehoe stated that local governments are encouraged to obtain matching funds from all possible sources to ensure that enough funding is provided for their projects.

Ms. Kehoe stated that some appropriations for 2013 will be voided because the applicable capital projects have not been certified as ready for funding, and she emphasized the importance of reviewing reversion dates on projects.

Committee members and David Abbey, director, LFC, discussed possible methods to encourage local governments to individually improve tracking of progress on capital projects. A committee member expressed concern about how money set aside for particular capital outlay projects might eventually be appropriated for other purposes and inquired whether there might be a method to minimize the impact on certain projects.

Committee members also discussed the manner in which capital outlay projects are prioritized. A committee member indicated that in some states, legislative budget committees are responsible for such prioritization, but New Mexico has a unique prioritization process. Committee members discussed possible advantages and disadvantages of the process used in the state.

Adjournment

There being no further business before the committee, it adjourned at 12:10 p.m.